

Message

From: Casso, Ruben [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E33DF0ABBBF049959E9100E556C7E634-CASSO, RUBEN]
Sent: 7/18/2019 9:01:37 PM
To: Young, Carl [young.carl@epa.gov]
Subject: FW: TX Round 2 SO2 designations litigation
Attachments: Notice to Parties - Texas SO2 Designations Litig - 7-12-19.pdf

From: Olszewski, Joshua
Sent: Monday, July 15, 2019 9:59 AM
To: Feldman, Michael <Feldman.Michael@epa.gov>
Cc: Casso, Ruben <Casso.Ruben@epa.gov>; Snyder, Erik <snyder.erik@epa.gov>
Subject: RE: TX Round 2 SO2 designations litigation

The 5th Circuit has responded (attached) to our July 3, 2019 status report, requesting that all parties file a supplemental status report by 7-26-19. The court expressed concern with our explanation for the delay in paragraph 8 below.

From: Olszewski, Joshua
Sent: Tuesday, July 09, 2019 5:48 PM
To: Feldman, Michael <Feldman.Michael@epa.gov>
Cc: Casso, Ruben <Casso.Ruben@epa.gov>; Snyder, Erik <snyder.erik@epa.gov>
Subject: RE: TX Round 2 SO2 designations litigation

EPA filed another status report on July 3 (attached). The meat of the report is pasted below:

6. On December 11, 2017, the State of Texas petitioned EPA to reconsider the designations of the three areas designated as nonattainment based, in part, on new information. See Ex. 1 to EPA's April 12, 2018 Status Report (Doc. #00514427585).

7. Since the Court's October 2017 Order, EPA has continued to evaluate the administrative options for revisiting the three nonattainment designations made in the Supplemental Rule, including consideration of Texas' December 2017 reconsideration petition and other new information regarding the status of certain permits at the source(s) in at least one of the areas. In the Fall 2018 Unified Agenda of Regulatory and Deregulatory Actions, EPA again confirmed its intent to publish a proposed action that will initiate a notice and comment process to revisit these areas.

8. On November 5, 2018, EPA submitted a Supplemental Status Report pursuant to the Court's Order of October 22, 2018 (ECF Doc. #00514691531). EPA stated that it continues to work as expeditiously as possible on that proposal, and that it intended to sign the notice of proposed action within 60 days of that filing. However, as explained in EPA's January 3, 2019, Status Report, in light of the intervening government shutdown, EPA was not able to complete the actions necessary to finalize and ensure signature of the notice of proposed action by the anticipated date.

9. EPA has drafted a proposal to initiate a notice and comment process

to revisit these areas' designations, which is currently in management review, and continues to work expeditiously to finalize the proposal.

10. Given the above, the Agency continues to believe that this case should remain in abeyance pending the conclusion of administrative proceedings addressing the Supplemental Rule. EPA will notify the Court once it has signed the notice of proposed action. Additionally, consistent with the Court's October 12, 2017 Order, EPA will file an updated status report in ninety days, unless the Agency's administrative proceedings conclude earlier.

From: Feldman, Michael
Sent: Friday, March 29, 2019 2:40 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Olszewski, Joshua <olszewski.joshua@epa.gov>
Subject: TX Round 2 SO2 designations litigation

Andrea – Can you tell me when the next status report is due to the fifth circuit?

Do you happen to have any updates on EPA action on this matter? We have not heard of any movement of this since the February briefing.

Thank you,

Michael Feldman, PhD

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